

Business owner Billy Jarrett Miller qualified to run for Jonesboro mayor on Nov. 5, judge says

JONESBORO—Clayton County Superior Court Judge Aaron B. Mason on Wednesday ordered Jonesboro Elections Superintendent Ricky L. Clark Jr. to accept business owner Billy Jarrett Miller's qualifying packet and to place his name on the city's Nov. 5 ballot.

Mason also left a temporary restraining order in place, adding that, as soon as he signed the mandamus, Clark was compelled to accept Miller's packet and do "any and all other acts to place his name on the ballot as a candidate for mayor."

At issue was whether Miller had missed the deadline to qualify to run for mayor. Miller attempted to file on Friday, Aug. 23, but said Assistant City Clerk Pat Daniel told him that qualifying had ended two days earlier. When Miller's campaign manager, Chip Flanagan, asked if Miller could be a write-in candidate, Flanagan testified, she said that date also had passed.

"She said no, then quickly said, 'Let me check,' Miller testified. "She comes back and said 'No, qualifying's over.'" Miller was not called to testify. However, she was served with Clark's summons on Sept. 3.

Besides arguing that Clark had not been properly served, his attorneys said sovereign immunity prevented Miller from seeking relief. Miller's attorney, Vincent Russo, argued that Constitutional protections superseded sovereign immunity and that sovereign immunity does not extend to municipal corporations in Georgia.

Mason ruled that "Confusion was caused by Mr. Clark by giving out qualifying packets with dates that were different than what they argued today," adding, "Mr. Clark caused the injury to Mr. Miller."

"I find it is the job and the duty of the elections superintendent to designate days for qualification for non-partisan elections," Mason said. "In this case, there were at least three different dates out there for public consideration."

Those dates, he said, were Aug. 19-21, Aug. 19-23 and Aug. 26-28. Mason noted that both Miller and Flanagan were interested in Miller's qualifying, and that Flanagan "had confusion about the conflicting dates, showed up, received the packet," and believed his question was resolved by the cover sheet inside. That sheet, written on Clark's city letterhead, indicated qualifying was open Aug. 19-23 from 8:30 p.m. to 4:30 p.m. Mason found that Miller and Flanagan were rebuffed when they showed up around 9:30 a.m. on Aug. 23.

Clark testified that he had not been in his office at the time, that he was still at home, that he sometimes worked from home and that he did not get to his office that day until just before lunch.

According to Clark's testimony, Mason said, "Mr. Clark was not in the office at the time (they) were there...but there is an exhibit in evidence, in which we had a modification of the agenda that was created setting the qualification dates."

Mason noted, "It's interesting that on Aug. 23 at 10:14 a.m., we have a document created and modified changing the dates. That's very troubling to me and when it was pointed out to me, it troubled me greatly. Whether it was done at the behest of others or for ulterior motives, it just doesn't look good."

Mason added, "Mr. Miller doesn't have the right to be mayor. Mr. Miller may never get to be mayor. But God knows he has the right" to run.

"Based on fact, the confusion and injury occurred, in the best light, from confusion," Mason said. "In the most sinister light, it looks like it may have been done to protect others in office."

Asked when he planned to turn in his qualifying packet, Miller said, "I've got it right here. Do you wanna call and ask (Clark) when he's gonna be in the office?....I can give him that packet anytime, today, tonight, it don't matter. Weekend? I don't care. I got another packet to give him, too."

Clark told the News that he had not decided whether to appeal the ruling, adding that it would not affect the date of the election. Attorney Stephen Fincher said he would not file an appeal.